

REMARKS

This amendment submits a new set of claims directed to a capsule (claims 58-79 and 81) and a method of making a capsule (claim 80). Entry of the amendment is deemed proper and is respectfully requested.

Response to Rejections under 35 U.S.C 112

Claims 31-56 were rejected under 35 U.S.C. 112, second paragraph as being indefinite. The Office Action recites various terms as being unclear. Applicants respectfully submit that all of the terms used in claims 31-56 are clear to those of ordinary skill in the art. Several of the terms have been removed from the new claims only in an effort to more clearly define the invention.

Three of the phrases asserted to be unclear - "setting system", "2 to 7% by weight of water" and "sequestering agent" remain in the claims. Applicants respectfully submit that these claims are clear and fully satisfy the requirements of 35 U.S.C. 112, second paragraph. Specifically, on page 4, line 17- page 5, line 2, the term setting system is described with sufficient clarity for one of ordinary skill in the art to understand the meaning of the term. The setting system is used to help the PVA solution remain on the mould pins during the capsule forming process. Additionally, the term "2 to 7% by weight of water" is clear in that the specification recites that "[t]he the PVA capsules produced from the solutions as described will consequently contain by weight 2 to 7% water..." Applicants submit that this term is clear to one of ordinary skill in the art as referring to the amount of water in a finished capsule.

Finally, the term sequestering agent is a very well known term. This term is well used in the art and the metes and bounds of the meaning of this term is readily determinable by those skilled in the art. To support this Applicants have attached the results of a search on the U.S.P.T.O web site which shows that 179 patents issued since 1996 include the term sequestering agents in the claims.

Accordingly, Applicants submit that newly presented claims 57-81 are clear to those of ordinary skill in the art and that the rejection under 35 U.S.C. 112, second paragraph should be withdrawn.

Response to Rejections under 35 U.S.C. 103(a)

Claims 31-56 stand rejected under 35 U.S.C. 103(a) as being obvious over Jordan alone or in combination with Rhodes, Gilbert, Yamamoto or Frensch. Applicants respectfully submit that newly presented claims 57-81 are patentable over Jordan alone or in combination with the secondary references. Specifically, the newly presented claims are directed to capsules or a method of making capsules. In contrast, Jordan is directed to a dry moisture film coating composition for coating of tablets comprising poyvinylalcohol, soya lecithin, water and a viscosity modifier. There is no teaching of a capsule made from polyvinyl alcohol or a setting system that would make the polyvinyl alcohol composition useful in the production of capsules.

None of the secondary references cure the deficiencies in the teaching of Jordan. The only reference that teaches a capsule composition using polyvinyl alcohol, Frensch, does not teach and setting system as reciting in the present claims. Therefore, even if

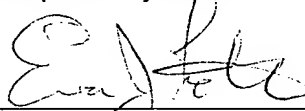
Application No. 09/840,257
 Filing Date: April 23, 2001
 Docket No. 6512-11-EJF

there was motivation to combine these references, the combination does not teach or suggest the presently claimed invention.

Moreover, there is no teaching or suggestion in Jordan, taken alone or in combination with the secondary references, of any of the limitations as set forth in newly presented claims 57-81. For example, there is no teaching or suggestion of a capsule composition with 90 to 97% by weight of polyvinyl alcohol, 2 to 7% by weight of water, 0.01 to 10% by weight of hydrocolloids, and 0.001 to 5% by weight of cations based on the total weight of the capsule as recited in claim 81 or of a method of making a capsule with this ingredients, recited in claim 80.

Accordingly, Applicants respectfully submit that the claimed invention is patentable over the art of record and the rejections should be withdrawn. If the Examiner has any questions, please contact the undersigned attorney at (973) 385-5263

Respectfully submitted,



Evan J. Federman
 Attorney for Applicants
 Reg. No. 37,060

Warner-Lambert Company
 201 Tabor Road
 Morris Plains, New Jersey 07950
 Phone (973) 385-5263
 Fax (973) 385-3117